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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,445	11/06/2003	Chun-Hung Lin	CHU 235	7619
7590 03/12/2004				
RABIN & BERDO, P.C. Suite 500 1101 14 Street, N.W. Washington, DC 20005			EXAMINER DANG, HUNG XUAN	
			ART UNIT 2873	PAPER NUMBER

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/701,445

Applicant(s)

LIN, CHUN-HUNG

Examiner

Hung X Dang

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Information Disclosure Statement

1. If applicant is aware of any relevant prior art, he/she requested to cite it on form **PTO-1449** in accordance with the guidelines set forth in M.P.E.P. 609.

Claims Rejection Under 35 USC - 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Sordillo et al** (4,806,009).

Sordillo discloses a nose pad which comprises a nose rack (25) with an axis (28), a fastener (17) with a sleeve corresponding to the axis, an insertion hole (between a pair of prong 18 and 18') is on the sleeve for the axis to insert, the open of the insertion hole (between a pair of projection end portion 19 and 19') is smaller than the diameter of the axis and a pad (10) (see figures 1-4 and 6, and the related disclosure.)

Claims Rejection Under 35 USC - 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sordillo et al** (4,806,009).

Sordillo discloses a nose pad which comprises a nose rack (25) with an axis (28), a fastener (17) with a sleeve corresponding to the axis, an insertion hole (between a pair of prong 18 and 18') is on the sleeve for the axis to insert, the open of the insertion hole (between a pair of projection end portion 19 and 19') is smaller than the diameter of the axis and a pad (10) (see figures 1-4 and 6, and the related disclosure.)

Sordillo does not teach exact the configuration of the nose rack as that claimed by Applicant in claims 2-7.

Although the Sordillo device does not teach the exact configuration of the nose rack as that claimed by Applicant, the configuration differences are considered obvious design choices and are not patentable unless unobvious or unexpected results are obtained from these changes. Additionally, the Applicant has presented no discussion in the specification which convinces the Examiner that the particular configuration of the nose rack is anything more than one of numerous configuration a person of ordinary skill in the art would find obvious for the purpose of providing support. It appears that these changes produce no functional differences and therefore would have been obvious.

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4. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (571) 272-2326.

3/04

A handwritten signature in black ink, appearing to read 'Hung Dang', with a stylized, cursive script.

HUNG DANG

PRIMARY EXAMINER

TC 2800